



AGENDA MEMORANDUM

Future Item for the City Council Meeting of January 8, 2013
Action Item for the City Council Meeting of January 15, 2013

DATE: December 24, 2012
TO: Ronald L. Olson, City Manager
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Resolution declaring the City's support the Texas Coalition for Affordable Power's (TCAP) legislative agenda for the 83rd Regular Session of the Texas Legislature.

CAPTION:

A RESOLUTION OF THE CITY OF CORPUS CHRISTI, TEXAS, ENDORSING CERTAIN LEGISLATIVE ACTION IN THE REGULAR SESSION OF THE 83RD TEXAS LEGISLATURE TO ENHANCE THE COMPETITIVE ELECTRIC MARKET AND SYSTEM RELIABILITY AND TO PROTECT THE TRADITIONAL ROLE OF CITIES IN THE REGULATORY PROCESS

PURPOSE:

The Texas Coalition for Affordable Power (TCAP) recently adopted its legislative agenda for the upcoming 83rd Regular Session of the Texas Legislature that convenes January 8, 2013. TCAP's agenda includes nine items that would fall under the City's Actively Support and Actively Oppose category, which means the City will aggressively attempt to influence the passage or defeat of legislation, if it is filed. The City will not seek introduction of any of the items on the TCAP agenda.

BACKGROUND AND FINDINGS:

The Texas Coalition for Affordable Power (TCAP) is an alliance of cities and other political subdivisions joined together to purchase electricity for their own governmental use. The more than 160 cities and other political subdivisions that comprise TCAP purchase in excess of 1.3 billion kilowatt/hours of power each year, making it the largest coalition of its type in the state. Using the strength of its numbers, TCAP negotiates terms and conditions for electric service that may be unavailable to a single city acting alone. The City of Corpus Christi has been a member of TCAP or a predecessor organization (the South Texas Aggregation Project, or "STAP") since 2001. In 2011 STAP merged with Cities Aggregation Power Project to form TCAP. First Assistant City Attorney Alison Logan represents the City of Corpus Christi and serves on the TCAP Board of Directors.

TCAP and its predecessor organizations advocated on behalf of electric customers during the 2003, 2005, 2007, 2009, and 2011 legislative sessions. Over the course of those sessions, the

coalition sponsored dozens of different bills intended to improve electric deregulation in Texas. TCAP also promotes consumer interests before the Public Utility Commission and other organizations overseeing the Texas electric market.

TCAP's legislative priorities are:

1. The Regular Session of the 83rd Texas Legislature be encouraged to preserve the traditional role of cities in the regulatory process, including original jurisdiction and reimbursement of reasonable rate case expenses.

Note: Groups such as the Texas Public Policy Foundation (TPPF) want to prohibit cities from being involved in the regulatory process and to limit rate case expenses. Original jurisdiction in rate cases empowers cities to achieve utility savings for their constituents that far outweigh rate case expenses.

2. The Legislature make no statutory changes that would lead to a reduction in revenues paid by public utilities as franchise fees for rental of public rights-of-way.

Note: Both state law and the Texas Constitution provide that a city may not allow a private entity to use city property for free (Texas Town and City, April 2011). Cities and utilities enter into franchise agreements for the use of the right-of-way.

3. The Legislature facilitate and encourage public/private partnerships between cities and electric generation developers in creating small-scale (not to exceed 50 MW) power plants capable of rapidly meeting peak power needs.

Note: Cities should have the right to pursue small-scale generation projects, just so long as the projects enhance economic development and produce affordable power. Such public-private partnerships also are a cost-effective way to help address the state's long-term generation and reliability challenges.

4. The Legislature recognize that "smart meters" are under-utilized with regard to encouraging and incentivizing reductions in energy consumption during peak periods and that the regulated transmission and distribution utilities which own the "smart meters" be allowed to re-enter the retail electric market to the extent they offer regulated rate plans designed to incent reductions in peak energy consumption.

Note: The transmission and distribution utilities cannot, by state law, enter the retail electric market. There is no incentive for retail electric utilities to incentivize reduced energy consumption during peak periods. If transmission and distribution utilities can — through the use of smart meters — incentivize reduced energy consumption during peak demands, statute should allow them to do so.

5. The Legislature preclude foreign ownership of electric distribution assets and make it clear that, notwithstanding any other provision in law, home rule cities, individually or collectively, shall be permitted to own and operate electric distribution assets so long as said cities are not involved in retail sales of electricity.

Note: To ensure accountability and responsiveness, the local electric distribution network should be owned by domestic entities, including home rule cities, not foreign entities.

6. The Legislature resist any efforts to transform the energy-only ERCOT market into a capacity market which would increase the price of electricity by artificially inflating generator profits.

Note: When Texas deregulated its electric power market in 2002, it adopted an "Energy Only" market in which generators typically get paid only for energy they actually produce. However, there is a concern expressed by the Public Utility Commission of Texas ("PUC") and the Electric Reliability Council of Texas ("ERCOT") that low electric prices in the current market are not sufficient to incent investment in building additional generation plant to serve Texas' growing population and economy. There have been suggestions to replace Texas' Energy Only market with a capacity market in which generators receive an extra payment based on the capacity of

their generation fleet. This payment would be in addition to the payments generators receive for selling power. The problem with capacity markets is that they increase the cost of power to consumers and they are extremely complex and their benefits difficult to measure. Now that consumers in the state's deregulated market are finally benefiting from lower electricity prices, it would be wrong to introduce a regulatory mechanism to artificially increase them again..

7. The Legislature enhance protections against anti-competitive activities in the wholesale market and require the Public Utility Commission to reform its rules related to Voluntary Mitigation Plans and allow cities and other interested parties to participate in review of such plans.

Note: Under Texas law, generation companies can protect themselves, in advance, against prosecution for anti-competitive behavior. Such protections are included in complicated regulatory documents known as "voluntary mitigation plans." However, consumer groups have no voice in the regulatory proceedings that establish these plans. Outside parties should have the right to petition for the dissolution of any voluntary mitigation plan that works to circumvent open competition and artificially inflates electric prices.

8. The Legislature mandate that the PUC and market participants provide consumer education regarding the relationship between time of use, cost of energy production and transmission, and the price paid by consumers.

Note: Educating consumers will help them make informed choices. Many consumers are disconnected and ill-informed about the relationship between the use, production, transmission and price of energy.

9. The Legislature require the PUC to establish certain uniform products that must be offered by all retail electric providers ("REPs") and to establish new rules governing the powertochoose.org and powertosavetexas.org websites that will better inform retail customers of complaints against REPs and better educate customers regarding the economic and market benefits of reducing demand during peak periods.

Note: In a competitive electric utility market, information is critical for consumers to make the best choices for their situation. Enhancing the quality and quantity of information available to consumers, including complaint information and cost data, will help save money and improve service delivery.

ALTERNATIVES:

1. The City could adopt the resolution supporting the TCAP agenda.
2. The City could opt not to adopt the resolution.
3. The City could alter the categories of any of the legislative agenda items from Actively Support and Actively Oppose to either Priority or Endorse.

OTHER CONSIDERATIONS:

None

CONFORMITY TO CITY POLICY:

N/A

EMERGENCY / NON-EMERGENCY:

This is a non-emergency item.

DEPARTMENTAL CLEARANCES:

FINANCIAL IMPACT:

Operating Revenue Capital Not applicable

| Fiscal Year: 2012-2013 | Project to Date Expenditures (CIP only) | Current Year | Future Years | TOTALS |
|-------------------------------|--|---------------------|---------------------|---------------|
| Line Item Budget | | | | |
| Encumbered / Expended Amount | | | | |
| This item | | | | |
| BALANCE | | | | |

Fund(s):

Comments: None

RECOMMENDATION:

Staff recommends approval of the resolution.

LIST OF SUPPORTING DOCUMENTS:

TCAP Council Resolution
TCAP flyer of legislative priorities